

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 14,076

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Appeal of)

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INTRODUCTION

The petitioner appeals a decision by the Department of Social Welfare denying her eligibility for the Supplemental Fuel Assistance Program based on her move to a subsidized housing unit where the cost of heat is included in the rent.

FINDINGS OF FACT⁽¹⁾

1. The petitioner is a disabled woman who lives on an SSI income of \$537.41 per month. She recently moved from a small apartment in Putney to an even smaller federally subsidized apartment in the Barre area.
2. Prior to her recent move, the petitioner had her electricity included in her rental payment of \$83 per month but was liable to pay her own heating expense which averaged about \$55.30 per month. Because she was liable for her heating expense, she was found eligible for the fuel assistance program in this apartment.
3. Her new apartment in subsidized housing requires her to pay a higher rental of \$93 per month but that figure now includes her heat. She is now liable for her own electric expenses (cooking, hot water and lights) which at this point are running about \$36.70 per month, but which she expects to be higher in the winter months.
4. On August 25, 1995, the petitioner was mailed a notice by DSW that she would no longer be eligible for fuel because she lives in subsidized housing and has no out of pocket expenses for fuel.
5. The petitioner has appealed that decision because she believes it is unfair that she cannot get fuel assistance in her current apartment when her shelter expenses are roughly the same as in her previous apartment.

ORDER

The decision of the Department to deny fuel assistance is affirmed.

REASONS

The regulations adopted by the Department of Social Welfare restrict eligibility for the Supplemental Fuel Assistance Program as follows:

The Vermont Fuel Assistance Program provides assistance to households responsible for paying for their own heat or making undesignated payments for home heat in the form of rent. Fuel Assistance will not be paid to

households in subsidized housing who do not pay for their own heat.

W.A.M. 2900

That same restriction is contained in the regulations

on excluded households:

Households of the types listed below are excluded from eligibility.

...

2. Residents of public subsidized housing for which heat is provided in the rent and who do not receive, either directly or indirectly as a reduction of their rent obligation, any utility allowances that include energy costs. This exclusion does not preclude emergency assistance in extenuating circumstances.

W.A.M. § 2902.4

The petitioner is a householder in subsidized housing who does not pay for her own heat. Her heat is included in her rent payment. No evidence was presented indicating that the petitioner gets a utility allowance for energy costs or that her rent is reduced to pay for such costs. Under

the Department's regulation the petitioner was properly denied fuel assistance. She does not make any argument nor point to any authority which would support a finding that the Department's regulation is in conflict with any law or is otherwise illegal. It appears that the Board is, therefore, bound to uphold the decision of the Department. V.S.A. § 3091(d) and Fair Hearing Rule 17.

If the petitioner can present some evidence that she has a utility allowance for energy costs, the Department may be able to reconsider her eligibility for fuel assistance for this winter heating season. It also appears that she may still be considered for emergency assistance under the Fuel program if she should apply.

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1. These facts were found and adopted by the Board in Fair Hearing No. 13,864 which involved a Food Stamp reduction. When the petitioner indicated that she had intended to appeal and receive a decision on

her fuel denial as well, the original case was decided and the matter was remanded to the hearing officer to make a recommendation based on facts found in the prior hearing which were deemed both relevant and sufficient to make this subsequent ruling.